

General Information Letter: Annuity purchased from life insurance company outside any pension plan is not exempt from Illinois tax.

April 1, 2005

Dear:

This is in response to your letter dated March 14, 2005 in which you state the following:

I called an IRS office to find out if an Annuity that my mother has is taxable or not. He was unable to tell me, and suggested I write you to find out. The Annuity is with an insurance company by the name of COMPANY in CITY, Michigan. The policy number is: XXXXXXXX. She took a partial withdrawal on this policy.

Please advise me if this is taxable or not? If it is, please send me a Illinois 2210 form.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

The answer to your question can be found in Section 203(a)(2)(F) of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.). Section 203(a)(2)(F) states as follows:

Section 203. Base income defined

(a) Individuals.

- (1) In general. In the case of an individual, base income means an amount equal to the taxpayer's adjusted gross income for the taxable years as modified by paragraph (2).
- (2) Modifications. The adjusted gross income referred to in paragraph (1) shall be modified ... by deducting from the total so obtained the sum of the following amounts:
  - (F) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

. . .

The IRC Section listed above that deals with annuities is IRC Section 403: Section 403(a) discusses Employee Annuities and Section 403(b) discusses beneficiaries of Annuities purchased by exempt organizations or public schools.

As we discussed on the telephone yesterday, the annuity that your mother took a partial withdrawal from is not one that is described in IITA Section 203(a)(2)(F). The annuity purchased by your mother is part of a life insurance policy and has nothing to do with her employer or an employer/employee retirement or pension plan. The amount she withdrew will therefore not be an allowable subtraction from her adjusted gross income for Illinois income tax purposes.

Pursuant to your written and oral request, attached please find the Illinois 2210 form and instructions. As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott  
Staff Attorney -- Income Tax